

# EUDO CITIZENSHIP OBSERVATORY

## *COUNTRY REPORT: LATVIA*

Kristine Krūma

September 2009  
Revised April 2010



European University Institute, Florence  
Robert Schuman Centre for Advanced Studies  
EUDO Citizenship Observatory

***Report on Latvia***

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EUDO Citizenship Observatory  
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# Latvia

Kristine Krūma

## 1 Introduction

Citizenship attribution is sensitive issue in the Baltic States which, after the period of Soviet occupation beginning in 1940, restored their independence and citizenship in 1991. During the Soviet occupation, a large group of immigrants from former Soviet republics arrived in Latvia. The migration was encouraged by the so-called Russification policy. The policy sought to instil Soviet values and ideals and made Russian an official language alongside Latvian.

Upon the restoration of independence, Latvia, together with Lithuania and Estonia, claimed that Soviet occupation was illegal and that Latvia had never been part of the USSR *de jure*. This claim was based on the principle of state continuity, i.e. the continuity or identity of states as legal entities under international law, and required the articulation of a set of claims in accordance with the applicable international legal rules and procedures when referring to statehood (Ziemele 2005: 118). The claim was supported by states which never recognised Latvia's occupation and annexation (Feldmanis *et al* 1999: 174-135). The principle of state continuity has also been reflected in citizenship policies which followed the *ex iniuria ius non oritur* principle. According to this approach only those who were Latvian citizens and their descendants could restore their citizenship *de facto*, leaving Soviet era immigrants in legal limbo.

At the same time, Latvia had to take into account the framework of international law that existed when independence was restored and to deal with a large number of Soviet-era settlers. Under international pressure from various Western donor countries as well as international organizations, most notably Council of Europe, EU and NATO, Latvia liberalised its citizenship policies. In order to secure rights of Soviet-era settlers, which extend beyond the requirements of international human rights treaties, Latvia created a specific category of persons in international law, namely so-called non-citizens. This category has become the main focus of international debates on Latvian nationality policies. Initially, this status was seen as temporary because it was assumed that non-citizens would naturalise or eventually apply for citizenship in another state. However, today there is still a considerable number of non-citizens who are unwilling to naturalise due to variety of internal and external factors.

Recent debates concern two main issues. The first concerns the need to liberalise policies of dual citizenship, which is not accepted by Latvia so far. This debate started once it was realised that many Latvian citizens had left to work in other EU Member States after accession in 2004. The second debate concerns integration policy and the need to facilitate naturalisation, which has all but stopped since EU accession. In this context, the activities of Russia towards its compatriots have been provocative. Currently the prospects are unclear since Latvia is experiencing a deep economic crisis and integration and citizenship policies receive very little attention in political and media discourses.

## 2 Historical background of nationality policy

### 2.1 Restoration of nationality

An important step in the process of consolidating the new statehood proclaimed on 18 November 1918 was the adoption of the Law on Citizenship in 1919. This Law was not repealed subsequent to the occupation of Latvia by the Soviet Union in 1940. During the occupation, Latvian nationals also became nationals of the USSR by way of automatic imposition of the latter's nationality.

There were different views regarding the status of Baltic nationals after the Second World War. In some of the lawsuits initiated by Baltic nationals concerning their nationality they were still considered Baltic nationals by courts of other states. The varying treatment of Baltic nationals by other states prevailed until 1991 when the Baltic States regained independence.<sup>1</sup>

Upon the restoration of independence in 1990, decision-makers were faced with the dilemma of the two main options for reconstituting statehood which had direct repercussions on citizenship policy. Under the first option it was argued that the original state had disintegrated or disappeared and that a new state had been founded. This meant that Latvia should withdraw from the USSR on the basis of the 1978 Constitution of the Latvian SSR. The newly-founded state could then determine its nationals on the basis of its territory – a 'zero option', i.e. Latvia would accept that there was no illegal occupation and define its people anew by adopting new citizenship law. Therefore, Latvia would be guided by obligations under principles of state succession. This would create a more active role for human rights law (Ziemele 2005: 8). As far as this option is concerned, one may add, however, that the codification efforts of the International Law Commission at the United Nations concerning the nationality of persons in situations of state succession showed that awarding nationality to all residents by successor states that emerged from the dissolution of a predecessor state is by no means an automatic or established rule of international law.<sup>2</sup>

The second option emanated from the principle *ex injuria jus non oritur*, meaning that illegal Soviet occupation could not lead to Latvia's *de jure* loss of independence (Kalvaitis 1998: 231; Ziemele 2001: 233). This view was based on the concept of state continuity, which *inter alia* implies the continuity of the citizenship of the state in question (Thiele 1999: 12).<sup>3</sup> It was in line with truism that some kind of 'identity' or 'sameness' in the physical elements of the state (e.g. territory or population) existed to support the continuity or identity claim (Ziemele 2005: 129).

The adherence to the principle of state continuity was preferred and incorporated in the Declaration of Independence adopted by the Supreme Council on 4 May 1990.<sup>4</sup> The Declaration renewed the main articles of the *Satversme* (Latvian Constitution) and established a transitional period until full recovery of independence.

<sup>1</sup> For more detailed review of State practice see W.J.H. Hough III, The Annexation of the Baltic States and Its Effect on the Development of Law Prohibiting Forcible Seizure of Territory, N.Y.L.Sch.J.Int'LandComp.L., Vol.6, No.2, 1985, pp. 391-447.

<sup>2</sup> UN Doc A/RES/55/153 (Nationality of Natural Persons in relation to the Succession of States), 30 January 2001.

<sup>3</sup> For a detailed treatment of this principle and its interconnection with citizenship see Ziemele 2005.

<sup>4</sup> Short account of history of loss and regaining independence see Judgment No. 2007-10-0102 of Constitutional Court, 29 November 2007. Available at [http://www.satv.tiesa.gov.lv/upload/judg\\_2007\\_10\\_0102.htm](http://www.satv.tiesa.gov.lv/upload/judg_2007_10_0102.htm).

The Declaration was supported by 138 out of 201 MPs (Jundzis 2000: 654-658). The outcome was predetermined by elections which took place on 18 March 1990 during which candidates from the Latvian Popular Front and National Independence movements obtained an absolute majority of seats (Kusiņš 2000: 70). This was possible because not only Latvians, but also people of other ethnic origin, especially the intelligentsia, actively supported the claim for independence. The opposition, comprising mainly Interfront and the Council of United Workers, representing a conservative pro-Soviet communist position, obtained only minority support. The speed and scale of events made many residents feel confused during that period (Apine 2000: 109).<sup>5</sup> In general, the approach chosen by Latvia was supported also by the international community, especially those states which never recognised Latvia's occupation and annexation (Feldmanis et. al 1999: 174-135).

During the transition period set out in the Declaration, the political institutions of the Soviet era were still in place. However, their freedom to act was significantly restricted according to the Independence Declaration. Their authority was only to preserve continuity until the fifth legitimately elected Parliament, elected by Latvian citizens, would start functioning. Latvia had to restore not only citizenship, but also its pre-1940 institutions, including the parliament.

Therefore, the aggregate body of Latvian citizens was re-established in accordance with the 1919 Law on Citizenship, as amended in 1927. It was considered again applicable with the adoption of the 15 October 1991 Resolution on the Renewal of the Republic of Latvia's Citizens' Rights and Fundamental Principles of Naturalisation by the Supreme Council. The presumption was that Latvian nationality had continued to exist, irrespective of the loss of independence in 1940. This was in line with the humanitarian principles prohibiting the imposition of the citizenship of the occupying country upon nationals of the occupied country. It was argued that automatic conferral of USSR citizenship on the population of the Baltic states as a consequence of their occupation in 1940 was unlawful under international law as long as the Baltic states were presumed to exist (Kalvaitis 1998: 231; Ziemele 2001: 233). The Decree on the Order in which the Citizens of the Soviet Socialist Republics Lithuania, Latvia and Estonia are Granted USSR Citizenship (1940) on the basis of which Soviet nationality was imposed on Latvian citizens was declared null and void *ab initio*. Latvian citizens recovered *de facto* rights and obligations deriving from their Latvian nationality but those USSR citizens who arrived in Latvia as a result of its foreign occupation were subjected to the naturalisation procedure according to relevant legal provisions.

According to the Resolution on the Renewal of the Republic of Latvia's Citizens' Rights and Fundamental Principles of Naturalisation the following groups of individuals were recognised as nationals: (1) those who were Latvian nationals on 17 June 1940 and their descendants if they had lived in the country and had registered by 1 July 1992; (2) persons who were Latvian nationals on 17 June 1940 and their descendants if they did not reside in Latvia or were nationals of another state and had submitted an expatriation permit; and (3) persons born and residing in Latvia if their

<sup>5</sup> Statistics from 1990 show that Latvian independence was supported by 55 per cent of people living in Latvia. 85 per cent of Latvians expressed their support, 22 per cent of Russians and 35 per cent people of other ethnic origin. In the referendum on independence which took place on 3 March 1991, 87.6 per cent of all registered voters participated. Out of those participants, 73.58 per cent voted in favour of independence. In 1991 about 35 per cent of non-citizens were convinced that Latvia would never join Russia. See Apine 2000: 112.

parents were unknown. The process of naturalisation was also made easy for persons who were living in Latvia on 17 June 1940 without Latvian nationality. This approach was based on the premise that if Latvia had not been occupied these persons could have acquired nationality (Ziemele 1998: 208).

The decision to adhere strictly to provisions of the 1919 Law put an end to discussions which took place during 1988-1990. Many of those who supported independence hoped that even if the 1919 Law was renewed certain amendments would be made to adapt the law to the *de facto* situation in Latvia. These hopes were not unfounded as the leading pro-independence social movement—Latvian Popular Front—during its first and second congress in 1988 and 1989 appealed to non-Latvians to support the claim for independence and promised to grant them Latvian citizenship if they had resided in Latvia permanently for at least 10 years (Apine 2000: 112-113). The Russian intelligentsia claimed to have been betrayed and argued that at the very least naturalisation should be made easier (Apine 2000: 114). This reaction, however, was based on excessive expectations. Members of Latvian Popular Front had divergent views not only in relation to citizenship, but also about Latvian independence, as some members argued for the autonomy of Latvia within the USSR. The Front itself did not carry any political responsibility as it was not a political party but a social movement.

However, it can be argued that this decision served as a basis for later divisions in society and for the slow pace of naturalisation. It should also be acknowledged that politicians at that time felt pressure from the Latvian public which had regained independence after lengthy occupation and were experiencing national upheaval.

## 2.2 Basis for current nationality policy

By 1991, when the Republic of Latvia regained its independence, the titular nation had almost become a minority, i.e. only 51 per cent of the population, with Russians and other non-Latvian nationalities comprising 49 per cent of the population. This made Latvians feel insecure about their state and identity. By comparison, in 1935 Latvians had comprised 75.5 per cent of the total population. In light of the state continuity thesis, strict citizenship policies based on *ius sanguinis* resulted in 673,398 people, or 28.2 per cent of total population, left in the legal limbo. Afraid of possible tension and disorder, the Western allies required Latvia to adopt a new citizenship law which would accommodate the requirements of international law and would lead to more flexible naturalisation procedures.

During the parliamentary election campaign in 1993, citizenship was the most important issue. The elected parliament in a way represented the opinion of Latvian citizens as to how the state should proceed in this matter. The newly established political parties were well aware of their electorate consisting of citizens of pre-occupation period and their descendants. Proposals ranged from repatriation of all Soviet-era settlers to a zero option supported by the marginal minority. Initial proposals were very strict. According to the first model adopted by the Parliament, the first applications for naturalisation would have been accepted in 2000 and then only at a rate of 0.1 per cent of the previous year's total number of nationals.

This would have resulted in approximately a thousand new citizens annually. This draft was heavily criticised by the Western democracies and by international organisations. As a result, the President of Latvia refused to sign the adopted law. Complex nationality issues were even the reason for postponing Latvian membership

to the Council of Europe. The new Law on Citizenship was adopted on 22 July 1994. The law, slightly amended in 1995, followed the *ius sanguinis* principle. In addition, several other groups could qualify for citizenship such as Latvians and Livs<sup>6</sup> residing in Latvia,<sup>7</sup> women who lost citizenship upon marriage, orphans and persons who completed education in schools with Latvian as a language of instruction. As argued by Ineta Ziemele, the latter category broadens the scope of Latvian nationals in that it includes those former USSR nationals who may have integrated into Latvian society, irrespective of their place of birth (Ziemele 2001: 235). The right of a child to acquire Latvian nationality was ensured by providing that if at least one parent is a Latvian citizen the child will acquire Latvian nationality, subject to mutual agreement by the parents.

Those who did not belong to the above mentioned groups had to naturalise according to the procedures set out by law and the regulations of the Cabinet of Ministers. Although naturalisation requirements were made easier, they were still exclusionary. The law provided for gradual naturalisation, the so-called 'window-system', thus limiting the rights of individuals to freely choose the timing for naturalisation. It was provided that persons would be naturalised in stages starting in 1996 and ending in 2003 (Kalvaitis 1998: 231). After 2003 all persons would have the right to apply.<sup>8</sup>

The reason for this approach was fear that considerable numbers of Soviet-era settlers would opt for citizenship. This was seen as an obstacle to smooth naturalisation as well as a threat to Latvian democracy. Latvians still felt insecure about their status and capacity to preserve independence. Having experienced only a short period of independence in 1920s and 1930s and having been subjected to Russification policies, deportations and sanctions under Soviet regime, people wanted to make sure that independence was irreversible. The newly naturalised were not perceived to be loyal to the state by citizens.

However, the number of applications for naturalisation turned out to be much lower than expected. According to data of the Naturalisation Board during 1995-1998 only 15,853 people applied for naturalization and the number of successful applicants was 11,431. The reasons for the low interest, which were only analysed after the law was adopted, were (1) lack of knowledge of the Latvian language; (2) unwillingness to enter into obligatory military service; (3) the easier requirements for obtaining a Russian visa for non-citizens; (4) the number of rights already granted; (5) political mistrust and disappointment at not having been granted nationality automatically; and (6) an identity crisis after the collapse of the USSR. As a reaction to negative perceptions of Soviet immigrants by Latvians, many of them chose either to opt for Russian or other citizenship or to apply for the status of non-citizen.

### **2.3 The status of non-citizen**

As noted in the previous section, Latvia inherited large Russian-speaking communities who had arrived from the ex-USSR. The Soviet central authorities had encouraged

<sup>6</sup> Livs are a historic indigenous group of Finno-Ugric descent living near the Baltic Sea.

<sup>7</sup> They could not hold another nationality. Where they have immigrated from other countries they would be subject to a simplified naturalisation procedure.

<sup>8</sup> For instance, a person who was 45 years of age and born in Latvia could apply for naturalisation in 2000 while a person who was twenty could apply in 1996.



large-scale immigration of the labour force to meet the local demands of Soviet industrialisation and ethnic politics. Latvia suffered under this policy because (1) Latvia hosted the headquarters of the Soviet army for the Baltic region and (2) the Latvian communist elite was more sympathetic compared to other Baltic states. Consequently, the collapse of the Soviet Union affected mostly the Russian people and other Eastern Slav groups such as Byelorussians and Ukrainians (Berg & van Meurs 2001: 139). The historical minorities of Slav origin living in the Baltic States before the Soviet invasion were treated differently.

The collapse of the Soviet Union and the ensuing independence of Latvia created problems for persons who were living in Latvia and suddenly realised that they were nationals of a state which no longer existed. Moreover, many Russian military personnel (50,000-80,000 military personnel with more than 22,000 retired Soviet military officers) remained in Latvia pending an inter-state withdrawal agreement and some resorted to fictitious marriages and forged documents in an attempt to regularize their status in Latvia (Muižnieks 2006a: 15, Muižnieks 2006b: 120).

The Law on the Entrance and Residence of Foreigners and Stateless Persons entered into force on 2 July 1992. It determined procedures for applying and receiving residence permits. As noted by Ziemele, the formulations of the 1992 Law were initially unclear about the status of long-term residents in Latvia, opening ways for arbitrary decisions by relevant authorities. The status of individuals who entered Latvia between 4 May and 2 July 1992 was even more uncertain. The government had issued instructions in 1990 whereby permanent registration of persons arriving at that time was prohibited unless some special circumstances could be advanced. Practices varied from one administrative district to another. Some followed 1990 instructions; some applied the 1992 Law retroactively (Ziemele 2005: 160-161).

Soviet-era settlers could not be extradited as settlers from an occupying state because this would be contrary to human rights law which prohibits the expulsion of aliens *en masse*. Nor could these persons be classified as stateless because that would be against the principle on the reduction of statelessness. One option was to draft a liberal citizenship law in 1994. This option was ruled out due to political considerations as most voters were Latvian citizens on the basis of the 1919 Law. In an attempt to strike a balance between the State continuity and the obligation to avoid statelessness, Latvia introduced the special status of ‘non-citizen’ in 1995.<sup>9</sup> The Former USSR Citizens Act in art. 1 states:

‘The persons governed by this Act – “non-citizens” – shall be those citizens of the former USSR who reside in the Republic of Latvia as well as who are in temporary absence, and their children, who simultaneously comply with the following conditions:

1. on 1 July 1992 they were registered as being resident within the territory of Latvia, regardless of the status of their residence; or their last registered place of residence by 1 July 1992 was in the Republic of Latvia; or a court has established that before the above mentioned date they had been resident within the territory of Latvia for not less than ten years;<sup>10</sup>

<sup>9</sup> Law on the Status of Former Soviet Citizens who are not Citizens of Latvia or any Other State, Official Gazette no. 63, 25 April 1995

<sup>10</sup> In 1998, the Former USSR Citizens Law was amended to normalize the situation of those persons who had entered Latvia but who did not have ‘unlimited propyska’ in their passports. The Law now reads that nationals of the former USSR who had been ‘registered’ as living in Latvia on 1 July 1992 or

2. they do not hold Latvian citizenship;
3. they are not and have not been nationals of any other state.'

Persons excluded from the scope of the law are those who have been affiliated with Soviet military and their family members if they arrived in Latvia in connection with the service of a member of the armed forces, as well as persons who were reimbursed for departure or registered residence in CIS after 1 July 1992.

Article 1 recognises non-citizens as a special category whose legal status in some areas provides them with more rights and guarantees than, for example, proper permanent residents, however non-citizens are not yet nationals of Latvia.

Special rights given to non-citizens of Latvia can be summarised as follows. Non-citizens are given a special passport. The passport grants them the special status of belonging to the state, thus giving them the constitutional right to return.

In accordance with art. 2 of the Former USSR Citizens Act, non-citizens of Latvia cannot be deported, which is not the case with third-country nationals. When ratifying international conventions Latvia as a rule submits a declaration requesting the equal treatment of citizens and non-citizens. For instance, upon ratification of the European Convention on Extradition and its Protocols in 1997 Latvia stated that it shall apply to both citizens and non-citizens. Non-citizens enjoy human rights granted to nationals and this has been submitted by Latvia and accepted by a number of international treaty monitoring bodies. Moreover, in accordance with art. 2 of the Law on Diplomatic and Consular Service, they enjoy the diplomatic protection of Latvia. Non-citizens, however, are not granted political rights and they are barred from practicing certain professions related to civil service jobs and judiciary. There are also restrictions on owning land.

The implementation of the non-citizen status was not easy. The Latvian government had repeatedly extended the deadline set for March 2000 when the USSR passports were no longer valid for use. Despite the deadline, the Office of Citizenship and Migration Affairs (OCMA) continued exchanging passports into 2001 with 300 new passports issued almost every month (Ziemele 2005: 163). In 2002 there were still 19,000 people using old USSR Passports.<sup>11</sup>

Latvia lacked laws of administrative procedure and there were no administrative courts. The cases concerning non-citizens which were usually decided by administrative courts were dealt by civil courts. The courts were badly equipped and thus many judgments were hand-written. Therefore they are hardly accessible and researched. The main group of cases during 1990s concerned refusal by the OCMA to grant the status of non-citizen. Taking into account that a large number of Soviet-era settlers tried to abuse Latvian legislation, including former Soviet military personnel, immigration authorities adopted a strict approach. It led to thousands of court cases, some of which attracted interventions by the Commissioners of both the Organisations for Security and Cooperation in Europe (OSCE) and the Council of the Baltic Sea States (CBSS), as well as adjudication in European Court of Human Rights (Muižnieks 2006a: 16). At the present time, the situation has been normalised as administrative courts were established on 1 February 2004.

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who could prove with a court verdict, at least, a ten year long residence in Latvia are subjects of the Law (Ziemele 2005: 162).

<sup>11</sup> TVNET, <http://www.tvnet.lv/zinas/latvija/article.php?id=22337>, 2 July 2002.

There have thus far been several attempts to classify non-citizens under a heading recognised by international law.<sup>12</sup> Since Latvia's accession to the European Union there has been little or no pressure from international organisations regarding Latvia's citizenship policy and the issue of its non-citizens. Moreover, Latvian courts have only recently given an authoritative interpretation of the status of non-citizens, the most important of which is the recent ruling of the Constitutional Court.<sup>13</sup>

The Constitutional Court had to review the amendments made to the Former USSR Citizens Act which provided for the revocation of the status of non-citizen for persons who acquired the status of permanent residence in another country after 1 June 2004. Until these amendments, the status could only be renounced on condition that a nationality had been acquired. The Court regarded the amendments as unconstitutional. It began by analysing the adoption of the non-citizens' law in historical and political context and concluded that the opinion that Latvia had a duty to grant nationality automatically to those individuals and their descendants who have never been Latvian nationals and arrived during the occupation is unfounded (para. 13). The Court acknowledged that the introduction of the status of non-citizen was a complicated political compromise as a result of which a category unknown in international law had been created. The Court noted that Latvia has consistently defended its position that non-citizens cannot be qualified as stateless persons and this view has been accepted by the international monitoring bodies (Ziemele and Kruma 2003).<sup>14</sup> In its judgment, (para. 17) the Court defined the status of non-citizen in the following way:

'The status of non-citizens is not and cannot be considered as a mode of Latvian nationality. However, the rights given to non-citizens and the international obligations which Latvia has undertaken in relation to these persons signify that the legal link of non-citizens to Latvia is recognised to a certain extent and based on it mutual obligations and rights have emerged. This is derived from art. 98 of the Constitution which inter alia states that anyone who possesses a Latvian passport has a right to protection by the state and the right to freely return to Latvia.'

The court therefore confirmed that non-citizens have a special link with Latvia which entails mutual rights and obligations. Those are, however, different from the ones of nationals. It can be argued that non-citizens possess 'functional Latvian nationality', i.e. they have many of the rights of nationals except for political rights and the right to hold certain positions but they cannot be defined as nationals.

<sup>12</sup> For instance, Kees Groenendijk suggested that they should be called 'denizens', a term describing residents enjoying a status between alien and citizen (Groenendijk 1993: 15).

<sup>13</sup> See Constitutional Court Case 2004-15-0106, Official Gazette No. 40, 9 March 2005.

<sup>14</sup> See, for instance, Concluding Observations of the Human Rights Committee: Latvia, 3 October 1995. CCPR/C/79/Add.53; A/50/40, paras. 334–361. [www.unhchr.ch](http://www.unhchr.ch). Concluding observations of the Committee on the Elimination of Racial Discrimination: Latvia, 12 April 2001. CERD/C/304/Add.79. [www.unhchr.ch](http://www.unhchr.ch). See also Consideration of Reports Submitted by State Parties Under Article 9 of the Convention. Concluding observations of the Committee on the Elimination of Racial Discrimination, 55<sup>th</sup> Session 2-27 August 1999, CERD/C/304/Add.79 12 April 2001, paras 12-14, and 63rd Session, 4-22 August, CERD/C/63/CO/7 10 December 2003, paras 12-13. Consideration of Reports Submitted by State Parties under Article 40 of the Covenant, Human Rights Committee, 79<sup>th</sup> Session, CCPR/CO/79/LVA, 1 December 2003, paras 16-18.

### 3 The current citizenship regime

#### 3.1 Acquisition of nationality

According to the Citizenship Law of 1994, Latvian citizenship is acquired on the basis of the *ius sanguinis* principle rooted in the continuity of Latvian citizenship as identified in 1919. According to article 2 of the Citizenship Law, nationals of Latvia are: (1) persons who were nationals on the date of occupation and their descendants, unless they had acquired the nationality of another state after Latvia proclaimed its independence on 4 May 1990; (2) Latvians and Livs who permanently reside in Latvia, do not hold the nationality of another state or have received an expatriation permit; (3) women who permanently reside in Latvia and lost their nationality according to the Law on Citizenship of 1919 as well as their descendants, unless they acquired the nationality of another state after 4 May 1990; (4) naturalised persons; (5) children who are found in the territory of Latvia whose parents are unknown; (6) orphans living in an orphanage or a boarding school in Latvia; (7) children born of parents both of whom were nationals of Latvia at the time of such birth, irrespective of the place of birth of such children; or (8) persons who permanently reside in Latvia and are duly registered and who have completed a full educational course in general education schools in which Latvian was the language of instruction, or in mixed language schools, if they are not nationals of another state or have received an expatriation permit.<sup>15</sup>

There were many assessments on the compliance of Latvia's laws with applicable international standards in the area of nationality. These were accompanied by numerous recommendations, in particular concerning facilitation of access to nationality for Soviet-era settlers. In view of the constant pressure of the UN Commission on Human Rights, the Council of Europe, the OSCE High Commissioner on National Minorities and, most notably, the European Union<sup>16</sup>, Latvia amended its Citizenship Law in 1998 (Tomaševski 2000: 340). The amendments were confirmed in a referendum and became effective in November 1998.<sup>17</sup> These amendments abolished the 'window-system' and provided nationality for children born in Latvia after 21 August 1991 to stateless persons or non-citizens. In order to apply for nationality in the case of statelessness, a child should be: (1) a permanent resident; (2) stateless or a non-citizen 'for the entire time' of its life prior to application; (3) fluent in Latvian which is verified by a document from an educational establishment or by the Commission of the Naturalisation Board; and (4) over the age of fifteen. Additionally, the applicant should not have a criminal record indicating more than five years of imprisonment. Until the child reaches the age of fifteen, the application can be submitted by both parents, jointly or separately, or by the adoptive parents of a child if they are stateless persons or non-citizens and have resided in Latvia for at least five years.<sup>18</sup> It should be noted that a certificate of language proficiency must need only be submitted by those minors who have not been registered by their parents before the age of fifteen. Moreover, after they have reached the age of eighteen general naturalisation requirements apply.

<sup>15</sup> In 1995 grounds (2), (3) and (8) were included.

<sup>16</sup> The European Union 'expressed grave concern at certain aspects of the [...] law on citizenship adopted in Latvia' (European Commission, General Report on the Activities of the European Union 1994 Brussels/Luxembourg 1995, para. 759). See also the Opinion No. 183 (1995) on Latvia's application for membership in the Council of Europe; stars.coe.fr. Latvia was also cited three times

In addition to these amendments, the naturalisation procedure was simplified, i.e. several groups of individuals were identified for exemption from the naturalisation process or did not have to pass the naturalisation exams. Western countries and international organisations provided considerable assistance to Latvia with the objective of overcoming the main barriers which kept the numbers of applications for citizenship low. Special attention was paid to language training. About 50 different sets of learning and informational materials were published, 45 projects to facilitate naturalisation were initiated, an information centre was established and a number of campaigns were organised.

Art. 13 provides for the admission to nationality for special meritorious service beneficial to Latvia. A decision must be passed by Parliament on each individual case. A person cannot acquire dual nationality by the application of art. 13, and the restrictions contained in art. 11 are applicable.

### *Dual nationality*

Dual nationality is, in principle, not permitted in Latvia. The 1994 Citizenship Law does not, however, exclude this possibility if the person has registered his or her Latvian nationality. This means that Latvia will not create dual nationality, while acknowledging that other states may do so. The Citizenship Law is indeed ambiguous in relation to dual nationality. Art. 9 provides that a person who acquires Latvian nationality cannot be a dual national. Para. 2 of the same article states that where a person is considered to be a national of another state, in his or her relations with Latvia the person is considered only to be a citizen of Latvia. Art. 24 provides the possibility to revoke nationality by court decision if a person has acquired the nationality of another state without renunciation of his or her Latvian nationality. The possibility to hold dual Latvian nationality and that of another state is set out in the Transitional Regulations of the Citizenship Law. These provided that those Latvian nationals, and their descendants, who, during the period from 17 June 1940 until 4 May 1990, left Latvia as refugees or were deported could register as Latvian nationals until 1 July 1995. This provision is gender neutral, meaning that descendants of either parent could register. However, it does not mention that they have to renounce their current citizenship.

National courts have dealt with cases of dual citizenship on a number of occasions. The major problem seems to be the fact that persons applying for Latvian citizenship were not able to get adequate information on procedures for registering their children as Latvian citizens without renouncing existing citizenship.<sup>19</sup> For instance, the Constitutional Court dealt with a case where a dual citizen of Israel and Latvia was willing to register his daughter – a citizen of Israel – as a Latvian citizen

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under the UN 1503 procedure concerning gross and persistent violations of Human Rights (in 1995, 1997 and 2000).

<sup>17</sup> The amendments were adopted on 22 June 1998. The referendum was held on 3 October 1998 and about 53 per cent of the electorate voted for the adoption of the amendments.

<sup>18</sup> Only in exceptional cases can such an application be submitted by a single parent, i.e., by a mother if there is no entry regarding the father in the birth record or by the remaining parent if one parent is deceased.

<sup>19</sup> See case SKA-678/2008, Judgment of 6 November 2008 of Supreme Court Senate, Department of Administrative cases, and case SKA-417/2008, Judgment of 23 September 2008 of Supreme Court Senate, Department of Administrative cases.

after arriving in Latvia. However, because when entering Latvia he had indicated that his daughter was a citizen of Israel, she was refused Latvian citizenship. The Court ruled that dual nationality can arise at birth and is prohibited only in cases of naturalisation. A child cannot be refused dual citizenship on the basis of formal requirements, i.e. correct understanding of form to be filled in.<sup>20</sup> However, the question as to whether children must renounce their other citizenships when they come of age remains unclear.

### *Naturalisation*

Individuals who have registered with the Residents' Register are considered to reside lawfully in Latvia and are entitled to acquire nationality through naturalisation if they have received a permanent residence permit. The naturalisation requirements are the following: (1) permanent residence in Latvia for five years counting from 4 May 1990<sup>21</sup>; (2) knowledge of the Latvian language, the Constitution,<sup>22</sup> the anthem and the history of Latvia; (3) a loyalty oath to the Republic of Latvia; and (4) a legal source of income (art. 12).

The Law provides for a special procedure of naturalisation in cases where applicants were citizens of Lithuania, Estonia or Poland before the USSR intervention and have lived in Latvia for at least five years. These rules also include their descendants (art. 14).<sup>23</sup> The special procedure also applies to persons married to Latvian citizens for not less than ten years who have been residing in Latvia for at least five years, even if the spouse is deceased (art. 14). A special procedure provides that these applications are considered expediently.

Upon application, a person shall declare that he or she does not hold any other citizenship and that none of the restrictions apply as specified in art. 11 of the Citizenship Law. Article 11 establishes restrictions for naturalisation, if a person:

- has acted against the independence of Latvia and its powers, as established by the courts;
- propagated totalitarian ideals or ethnic or racial hatred, as established by the courts;
- served in the institutions of another state, including the armed forces;
- served in the USSR army and was called-up from outside Latvia;
- has been employed by the KGB, the security or intelligence or a similar service of another state;

<sup>20</sup> Decision of the Latvian Constitutional Court, Case No. 2007-07-01, 21 August 2007.

<sup>21</sup> According to para. 4 of art. 24 of the Immigration Law, permanent residence can be acquired after five years of residence in Latvia with a temporary residence permit. This means that a person shall reside five years in Latvia in order to obtain permanent residence and a further five years with permanent residence to acquire the right to apply for citizenship. Exceptional cases provide for a shorter residence requirement as permanent residence permits can be issued in certain cases immediately after arrival (for instance, family reunification, former citizens and non-citizens alike).

<sup>22</sup> The Law states that a person shall know the basic principles of the Constitution of the Republic of Latvia and the Constitutional Law Rights and Obligations of a Citizen and a Person. However, this law lost its force on 6 November 1998 when the Constitution was supplemented with a chapter on human rights.

<sup>23</sup> In the case of Estonia and Lithuania they had to be citizens of the respective countries on 17 June 1940, but in the Polish case on 1 September 1939.

- has been sentenced in Latvia or another state for a crime which is also a crime in Latvia;
- has, after 13 January 1991, worked against Latvia in a number of specified organizations.<sup>24</sup>

This Article seems to follow a rather exclusionary approach. For instance, if a person has been convicted of any crime (even if imprisonment was only for a year) he or she can never apply for Latvian citizenship. Also the restrictions in relation to the affiliation with the KGB could be challenged as to their legitimacy and proportionality since there are citizens who had the affiliation but who were nationals or acquired citizenship by registration.

Children up to the age of sixteen acquire citizenship together with the naturalised parent without undergoing the naturalisation process as set out in art. 12. This is also the case if the parents have not reached an agreement but the child permanently resides in Latvia or in cases of adoption. Citizenship is granted to a minor from fourteen to eighteen years of age only with his or her written consent (art. 16). If a minor's citizenship has changed and his or her consent has not been obtained, he or she can, within a year of coming of age, renew Latvian citizenship irrespective of the period of residence in Latvia (art. 16, para. 2). If the citizenship of a child has changed as a result of the marriage of one of his or her parents, the naturalisation procedure will not be applicable if the child wishes to renew his or her Latvian citizenship.

In accordance with art. 4 of the Citizenship Law, all Latvian citizens are equal irrespective of the way citizenship is acquired. This is a constitutional principle confirmed by the Constitution in art. 91 which states that all are equal before the law and human rights shall be respected without any discrimination. The Naturalisation Board, working under the auspices of the Ministry of Justice, is responsible for the examination of applications for naturalisation. During the naturalisation procedure the Board co-operates with other institutions with the aim of verifying the information submitted by the applicants. Its decisions are subject to appeal in court. During court proceedings, the naturalisation process is suspended until the decision of final instance or until the case is dropped. The procedure of naturalisation is set out in detail in a number of regulations of the Cabinet of Ministers. Regulation no. 34 on the Procedure of Acceptance and Review of Naturalisation Applications includes application forms and specifies the procedure for submission of applications including the documents to be submitted.<sup>25</sup> Naturalisation takes place in regional units of the Naturalisation Board. In 2004, the procedure for submitting documents was liberalised and the requirement that documents must be submitted in the regional unit of the registered place of residence of the applicant was lifted. The naturalisation procedure is relatively easy

<sup>24</sup> These include the Communist Party of the Soviet Union, the Latvian Communist Party, the Working People's International Front of the Latvian SSR, the United Council of Labour Collectives, the Organisation of War and Labour Veterans, the All Latvia Salvation of Society Committee or their regional Committees or the Union of Communists of Latvia. Concerning the legality of similar limitations for running for public office, see the case of *Ždanoka v. Latvia*, application No. 58278/00, Judgment of Grand Chamber of ECHR, 16 March, 2006, especially paras. 119 and 120.

<sup>25</sup> A special procedure is provided by the Regulations on the Procedure for the Acceptance and the Review of the Application on the Recognition of a Child to be a Citizen of Latvia. The documents submitted are subject to verification by the Office of Citizenship and Migration Affairs and the Ministry of the Interior if a child has reached the age of fourteen (minimum age for criminal liability). Any other state and self-governing institution can be approached by the Board (sect. 19).

and takes no more than six months from the date of application. Also, the fee for naturalisation has been lowered several times. Since 2003 it has been set at 20 Lats (approx. 30 euros) and at 3 Lats (4 euros) for certain groups of applicants.<sup>26</sup> Persons may withdraw their applications at any stage of the naturalisation procedure.

The requirements for the examinations are set out in the Regulation no. 353 on the Examination of Proficiency in the Latvian Language and the Examination of Knowledge of the Basic Principles of the Constitution, the Text of the National Anthem and the History of Latvia for Persons Who Wish to Acquire the Citizenship of Latvia through Naturalisation.<sup>27</sup> The regulations provide that knowledge of the language, of the Constitution, the anthem and history shall be tested by an examination commission established by the Naturalisation Board.<sup>28</sup> Persons exempt from the tests are those who: (1) have acquired primary, secondary or higher education in educational institutions with Latvian as the language of instruction, (2) have disabilities. Persons over the age of 65 shall be subject to the Latvian language test only.<sup>29</sup>

According to sect. 4, the employees of the Naturalisation Board, the members of the Standing Committee on the Implementation of the Citizenship Law, members of the Parliament, as well as representatives from other organisations and institutions, are allowed to be present in the examinations as observers if they have received permission from the head of the Naturalisation Board. The examination of language proficiency takes place within two months from the date when all necessary documents have been submitted, and the examination of the other topics is two months after passing the language exam (sect. 6). If the applicant does not attend or fails the exam, he or she can retake the exam after three months in the case of the language exam and after one month in the case of the so-called knowledge exam (sect. 9).

The language proficiency exam has a written and an oral part (sect. 11). According to sect. 22, the examination commission shall assess the applicant's ability to read, write, listen and understand talks on topics of everyday life. Applicants above the age of 65 only take the oral language test (sect. 21).

Language proficiency has often been mentioned as the main obstacle for naturalisation. Therefore, in 1996, the State Programme for Latvian Language Learning was initiated. Within the framework of the programme a number of language courses and information campaigns on naturalisation were conducted by the

<sup>26</sup> Regulations on the State Duty Payable for Submission of a Naturalisation Application, Regulation no. 234 (Record no. 26, para. 43), Riga, 5 June 2001 as amended until 2 December 2008. The rate is lowered to 3 Lats for: (1) members of poor families or poor persons; (2) unemployed; (3) members of families with at least three under age children; (4) persons receiving old-age pension; (5) disabled persons with a certain degree of disability; (6) pupils and students; (7) full time students of tertiary education establishments. Persons exempted are: (1) politically repressed; (2) severely disabled persons; (3) orphans and children who are not under their parents' charge; (4) persons sheltered by social care institutions of the state or self-government. The fees were changed in 1997, 2001 and 2002.

<sup>27</sup> Sample language and knowledge exams are available on the internet. See <http://www.np.gov.lv/index.php?id=503&top=0>, 5 January 2008.

<sup>28</sup> It was common practice that language proficiency had to be verified even after a person had passed the exam in case he or she wanted to hold a public position. This practice was changed after the decision of the Human Rights Committee in the *Ignatane* case (Communication No. 884/1999, 31 July 2001). Antonina Ignatane was deleted from the list of candidates for local government elections after language inspectors conducted an unexpected language examination at her place of work concluding that her level of language proficiency did not correspond to the highest degree necessary to be elected for local government.

<sup>29</sup> These exceptions were introduced in 1998. See also *Podkolzina v. Latvia*, application No. 46726/99 at the ECHR, 9 July 2002.



Naturalisation Board with financial assistance from various international organisations and Western countries. Overall success rate figures remain high. Between 1996 and May 2008 only 12 per cent of the applicants failed the exam. However, over the past four years, the pass rate has shown a steady decline. In 2008, for instance, 28 per cent of the applicants failed the language test.

The applicant may choose whether to take the knowledge exam orally or in writing (sect. 23). The success rate is similar to the language exam. The overall failure rate is about 4 per cent. However, in 2008, 18 per cent of those who took the exam failed.

During the period when the rate of applications for naturalisation was very high, i.e. in 2004, about 64.3 per cent of non-citizens interviewed responded positively to the question of whether they wanted to acquire nationality, while only 19.3 per cent indicated that they had not thought about it (Stalidzane 2004: 13). According to studies, the main motives for naturalisation are the following: the fact that the person lives in Latvia, the sense of belonging to the State, the need to increase safety, citizenship is better for children, it makes travelling easier, there are no professional restrictions and no limits on purchasing land. Latvian accession to the EU has also been mentioned as important. The indicators for loyalty among new citizens are also relatively high. Thus, 75 per cent of new citizens would be ready to defend Latvia while about 20 per cent still support joining the Commonwealth of Independent States.<sup>30</sup>

Upon accession to the EU, the question of granting EU citizenship to non-citizens was raised by left-wing political parties such as For Human Rights in United Latvia. However, it was never seriously debated in ruling coalitions. Two important considerations may explain the latter. Firstly, the discussion would inevitably lead to the rejection of EU membership in a referendum on joining the EU. Secondly, EU citizenship significantly reduces interest in naturalisation.

### *Loss of nationality*

Latvian nationality is lost in cases of renunciation or revocation. According to art. 23 of the Citizenship Law, renunciation can take place if a person has been guaranteed the nationality of another state except where he or she has unfulfilled obligations towards the state or has not fulfilled mandatory military service. The clause on the fulfilment of obligations towards the state is unclear, i.e. whether it involves fiscal or other obligations. Such a broad formulation may make it possible to arbitrarily deny the right to change nationality (Ziemele 1998: 248). Moreover, since 2004 Latvia has maintained a professional army and mandatory military service has been abolished.

Art. 24 provides for three cases when nationality can be revoked by a decision of a regional court, namely, if a person (1) has acquired the nationality of another state without renouncing Latvian nationality; (2) continues to serve in foreign armed forces or similar institutions without permission from the Cabinet of Ministers; or (3) has acquired nationality by fraud. The provision applies equally to all nationals, except for those who hold dual nationality and are thus exempted from the application of art. 24 (Ziemele 1998: 247). Family members are also not affected by such proceedings.

<sup>30</sup> Baltic Institute of Social Sciences

<http://www.biss.soc.lv/downloads/resources/jaunpilsoni/jaunpilsoni2001.pdf>, 8 January 2008.

These grounds comply with those identified in the Convention on the Reduction of Statelessness. If a person continues to reside permanently in Latvia for five years then this revocation does not affect future naturalisation (art. 25, para. 2).

### *The current regime for non-citizens*

Over the years the status of non-citizen has been strengthened and it is no longer treated as temporary. The main contributors factors contributing to this phenomenon have been national administrative courts, the European Court of Human Rights (ECtHR) and, also, the EU.

The cases on non-citizens represent about one quarter of more than 200 immigration related cases reviewed in different instances by administrative courts during the period between 2004-2008. They can be grouped under the following sub-headings: (1) access to the status of non-citizen; (2) access of children to the status of non-citizen; (3) revocation of the status, which is the largest part of all the non-citizen cases.

The number of cases on access to status is insignificant because the Status Law has been in force for about 13 years and a majority of those who were interested registered during 1990s. Most of the cases concern persons who were not living in Latvia permanently in 1992, as required by law, or had acquired and lost another citizenship in the meantime. This category of people arrived in Latvia later and applied for non-citizen status.<sup>31</sup> One of the most interesting cases is the case of Ms. Bakriseva. She was denied the right to acquire status of non-citizen because it was established that she had served in the military of the Russian Federation. According to Russian legislation, only Russian citizens are allowed to serve in the Russian armed forces. However, Ms. Bakriseva insisted that she never accepted Russian citizenship. The Court noted that, according to international law, the will of a person to become a national of a particular state is important because nationality cannot be imposed on a person. Since there was no conclusive evidence that Ms. Bakriseva applied for Russian citizenship herself, she could not be refused the status of non-citizen.

The cases on access to the status of non-citizen of children demonstrate that the status is attractive to non-citizens. The courts interpret the status according to the same principles as the status of citizen. The cases concern situations when one or even both parents were foreign citizens, but the parents have agreed to register their child as non-citizen of Latvia.<sup>32</sup> As a result of these decisions, the law was amended in 2007 and now provides that if one of the parents is a non-citizen but the other is citizen of another State they can register their child as Latvian non-citizen.

The largest group of cases concerns revocation of the status of non-citizen. Most of the cases concern situations when persons have acquired another citizenship

<sup>31</sup> Case No. C27225803 AA 261-05/01, 14 April 2005, Case No. C27188903 AA 484-05/5, 19 September 2005, Case No. A688-04/8 No. AA 398-05/3, 3 November 2005

<sup>32</sup> Case No. A42151204 AA890-05/8, 20 April 2005, Case No. A42244804 A1476-05/13, 19 May 2005, Case No. A42173504 AA 629-05/4, 30 May 2005, Case No. A42173104 SKA 136, 13 April 2005, Case No. A42399505 AA 1944-06/6, 21 September 2006, Case No. A42348705 AA 934-06/10, 28 April 2006, Case No. A42051204 A63-0457, 10 June 2005. Case No. A42399505 AA43-1832-07/15, 21 June 2007

but did not inform Latvian authorities.<sup>33</sup> Also, in cases when a person provided false information in order to acquire the status of non-citizen the status will be revoked.<sup>34</sup> The courts have been cautious when confirming the decisions of authorities concerning deprivation of status of non-citizen.<sup>35</sup> The Department of Administrative Cases of the Senate of the Latvian Supreme Court has concluded:

‘The connection of a non-citizen with the Republic of Latvia is closer than that of a stateless person or a foreign national. Therefore, withdrawal of the status of non-citizen is an important infringement of personal rights and cannot be based on external causes and facts that have not been fully established.’<sup>36</sup>

Another group of revocation cases concerns persons who tried to abuse a system established by Latvia, Russia and the USA, involving a special programme whereby persons residing in Latvia were granted financial assistance and housing in Russia. By becoming members of the programme they lost the non-citizen status. The right to reside in Latvia subsequently could be acquired only on a temporary basis and if the financial assistance has been returned. However, some of persons returned and applied for a permanent residence permit or claimed that they should still be considered as non-citizens since they had refused the housing which was offered to them. The cases are complicated because most often there was not sufficient information in the case file because the Russian authorities only introduced a proper registration system in 1998 and could not provide any documentary evidence.<sup>37</sup> All doubts are interpreted by the court for the benefit of the applicant.

It can be concluded that the case-law of the administrative courts has consistently reinforced the status of non-citizens indicating that non-citizens are not stateless persons because they have a special connection with the state of Latvia. Moreover, revocation of the status of a non-citizen is a material infringement of personal rights.

The recent ruling of the Grand Chamber of the ECtHR in the *Andrejeva* case serves as an example that the developments are going in the direction of eliminating differences in treatment of citizens and non-citizens. The Court established that Latvia has discriminated against non-citizens concerning the calculation of their pensions.<sup>38</sup> The State Pensions Act provides that the pensions of foreign nationals or stateless persons who were resident in Latvia on 1 January 1991 should be based on periods of employment in Latvia only. The Latvian authorities proceeded accordingly in the case of Natalija Andrejeva, who worked in Russia and Ukraine for seventeen years, explaining that different calculations would be possible only if a treaty were to be signed between Latvia and the respective states. The ECtHR considered it disproportionate to disregard employment periods of non-citizens in Russian or

<sup>33</sup> Case no. C27270301 A684-06/18, 5 May 2006, Case No. C27137903 AA 452-06/12, 20 June 2006, Case No. C27144702 A475-04/7, 1 December 2004, Case No. A42377606 A1960-07/9, 30 November 2007, Case No. A42415906 AA43-1059-07/6, 28 December 2007, Case No. A42416006 AA43-0133-08/4, 29 January 2008, Case No. C-27189303 AA 266-04/6, 30 September 2004, Case No. C27162801 SKA-10, 9 March 2004, Case No. C27188903 AA484-05/5, 19 September 2005

<sup>34</sup> Case No. C27270301 A684-06/18, 5 May 2006.

<sup>35</sup> Case No. A 688-04/8, AA 398-05/3, 3, November 2005, Case No. SKA-89 C27261801, 2004, Case No. A42005904 A 59-04/9, AA 369-05/2, 1 August 2004, Case No SKA-35, 7 February 2006, Case No. C27086604 A1062-04/7, 15 November 2004 and 24 November 2004.

<sup>36</sup> Case No SKA-89, C27261801, 2004

<sup>37</sup> Case No. A42603207, 24 April 2008, Case No. C27212003 AA 508-05/2, 15 August 2005, See also in different context Case no. C27232303 AA 372-04/7, 13 December 2004.

<sup>38</sup> Application No.55707/00, Grand Chamber Judgment 18 February 2009.

Ukrainian enterprises before 1991 in pension calculations. It dismissed the Latvian government's argument that such pension claims are subject to international agreements on social security. The dissenting opinion of the Latvian judge in this ruling shows that the ECtHR did not take into account the historical context of the case, which resulted in erroneous conclusions.

Although non-citizens are qualified as long-term resident third-country nationals in the EU framework in accordance with the provisions of Directive 2003/109/EC<sup>39</sup>, their passports have been recognised by the EU as valid for visa-free travel (Regulation 1932/2006/EC). Moreover, Russia has decided to provide holders of the non-citizen passports with visa-free travel to Russia. The decree, signed by President Dmitry Medvedev on 18 June 2008, grants these persons visa-free travel to Russia provided they have a valid travel document – a non-citizen passport in the case of Latvia and an aliens' passport in the case of Estonia. Minors must present either a valid travel document or a birth certificate if they are listed in the passport of an accompanying guardian.<sup>40</sup> The Latvian Ministry of Foreign Affairs delivered a protest about this decision, as it may bring the naturalisation of non-citizens to a halt.<sup>41</sup> However, the protests had no success.

Latvia has adopted a so called 'carrot-stick' policy towards non-citizens, i.e. if they want to enjoy the rights of EU nationals, then they must become nationals of an EU Member State. The current problem lies in the fact that the number of non-citizens is considerable and it is not decreasing fast enough. Moreover, in relation to travel, when compared to citizens, non-citizens are treated even better since they can freely travel to Russia.

#### 4 Current political debates and reform plans

Notwithstanding the latest amendments and campaigning, the numbers of non-citizens are still quite high. In January 2008 there were about 372,421 non-citizens in Latvia (in 1995, the number was 735,000). However, in the period between the start of the naturalisation process in 1995 and 31 March 2009, only 131,221 people were granted Latvian citizenship, including 13,747 minors (the rest were either repatriated or acquired Russian nationality while remaining residents of Latvia). Various attempts to speed up the naturalisation of non-citizens have had limited success and figures become lower each year. For instance, in 2005 after Latvia joined the EU, 19,169

<sup>39</sup> The EU accession negotiations avoided the issues related to the status and rights of non-citizens. The Commission of the European Union, when interpreting the scope of the application of the so called Third-country Nationals' Directive (Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-country Nationals who are Long-term Residents, Official Journal, L 016, 23 January 2004, pp. 0044-0053) stated that 'the expression "third-country national" covers all persons who are not citizens of the Union in the sense of Article 17 paragraph 1 of the EC Treaty, that is to say those who do not have the nationality of an EU Member State'. This indicates that persons with undetermined citizenship fall within the scope of the directive. Letter from the Directorate-General Justice and Home Affairs, European Commission to the Permanent Delegation of Latvia in the EU institutions, 23 June 2003.

<sup>40</sup> 'Visa waiving for Latvia's "non-citizens" jeopardizes Russia-EU talks', Ria Novosti [Russian national news agency], 18 June 2008, see [en.rian.ru](http://en.rian.ru).

<sup>41</sup> Arlietu ministrijas paziņojums par Krievijas Federācijas lēmumu atcelt vizu režimu daļai Latvijas iedzīvotāju [Announcement of the Ministry of Foreign Affairs concerning the decision of the Russian Federation to lift visa regime for a group of Latvia's inhabitants], press release, Latvian Ministry of Foreign Affairs, 18 June 2008, see [www.am.gov.lv](http://www.am.gov.lv).

people naturalised and in 2007, 6,826 people naturalised, but in 2008 only 3,004 people were naturalised. The same applies to children of non-citizens who are registered as citizens. During 2008 the number was 625 while in 2006 1,573 children were registered as citizens. According to the Head of Naturalisation Board, Eiženija Aldermane, the initial number of children of non-citizens was 17,700, but the number has increased recently. She explains that among reasons for low activity is lack of motivation and integration.<sup>42</sup>

The reasons for the lack of interest in naturalisation in general are changing however. For instance, knowledge of the language and military service are no longer mentioned in public opinion polls as important barriers to naturalisation. The biggest waves of naturalisation were at the time when the windows-system was abolished and when Latvia decided to join the EU. Acknowledging that there are no similar events to be expected in the near future, the figures will probably remain unchanged.

Agreeing with Mrs. Aldermane, several reasons for this situation can be mentioned. First, there is the lack of an integration policy. The discussions on the need to either liberalise citizenship policy or foster integration appear on the political agenda only in the context of elections<sup>43</sup> or particular celebrations such as 9 May, when Russia celebrates victory in the Second World War. The Special Assignment Secretariat for the Integration of Society, established after adoption of Integration Programme, played an important role during the education reform and coordinated the campaign inviting non-citizen parents to register their children as Latvian citizens. It also played an important role during the ratification of the Framework Convention on the Protection of National Minorities. However, in recent years the Secretariat has prioritised other issues unrelated to naturalisation and integration. On 30 November 2007 the Secretariat released a document entitled “Main Trends in the Policy of the Integration of Society 2008-2018”. The document was too general to make any assumptions about priorities or plans for action. In 2008 the Secretariat acknowledged that it was incapable of drafting a programme and sub-contracted a private PR agency to do the job. At the beginning of 2009 the Secretariat was merged with the Ministry for Children and Family Affairs. Taking into account the financial and economic crises, it is expected that the functions of this ministry will be further delegated to other ministries. Therefore, the work on integration issues is frozen.

Second, international actors, especially the European Union, are no longer playing a role in relation to naturalisation and integration issues. Until Latvia's accession, membership was a motivating factor for naturalisation. Moreover, the EU facilitated the process by providing financial support and monitoring the situation in Latvia in accordance with Copenhagen political criteria. Since the accession, the public support for EU membership has decreased in general.

Third, the naturalisation process is less attractive since Putin's post-Soviet compatriots policies have become more intense. The recently adopted Russian Foreign Policy Concept (adopted by the Russian President on 12 July 2008) confirms the continuation of this policy. The Concept distinguishes a separate foreign policy dimension called the ‘humanitarian trend’ of Russian foreign policy, which inter alia

<sup>42</sup> National News Agency LETA ‘Arvien mazāk nepilsoņu savus bērnus reģistrē par pilsoņiem’ [The number of children of non-citizens registered for citizenship decreases], 20 May 2009.

<sup>43</sup> See, for instance, A.Zoldners, ‘Ždanoka grib nepilsoņu tiesības vēlēties. Kalniete iesaka veicināt naturalizāciju’ [Ždanoka wants right to vote for non-citizens. Kalniete suggests to foster naturalization], 18 May 2009, <http://www.apollo.lv/portals/printit/167343/0>, accessed 25 May 2009.

includes the protection of the interests of ethnic Russians living abroad. The approach was further sharpened after the conflict in Georgia. Thus, the so-called Medvedev Doctrine refers to the protection of the lives and dignity of Russian citizens.<sup>44</sup> The Presidential Administration, the Russian Foreign Affairs Ministry and the Russian State Duma (the parliament) are the key institutions that provide support for non-citizen organisations in Latvia (Lerhis & Kudors 2008:72). Implementation of the policy is supported by Russian media. Their importance is growing and they are becoming largely self-sufficient. Demographically and linguistically weak, the Latvian majority is not well placed to live with a big, post-imperial minority that is politically supported by a non-democratic neighbouring state (Muižnieks 2006a: 5).

Apart from that there have been discussions about the need to amend the Citizenship Law in the context of dual citizenship. The proponents of these amendments identify a need to liberalise Latvia's dual citizenship policy. This debate was provoked by studies made by Latvian researchers and claims made by Latvian citizens who made use of their free-movement rights after Latvia joined the EU (Kruma 2006; Strategic Analysis Commission 2006). The strict policy regarding dual citizenship has been criticised by Latvian citizens living abroad, especially those in other EU Member States.<sup>45</sup> According to recent estimates, about 86,000 Latvian citizens have left Latvia since 2004 and the number continues to increase steadily (Indans and Kruma 2007: 165). However, with the present economic crisis a second wave of emigration is expected. The depopulation problem is further aggravated by the fact that Latvia has Europe's lowest birth rate. The Latvian government has responded to these demographic changes by establishing a working group to draft proposals for a new regulation regarding dual citizenship. The debate initially concerned only children.<sup>46</sup> However, there were also more liberal proposals tabled at a later stage.<sup>47</sup>

Currently no debates are taking place. The reasons for this being that there are ongoing institutional reforms and there is a deep financial and economic crisis in Latvia. Last year the government entrusted the Secretariat to draft a plan for motivating people to remain in Latvia. The deadline was 1 October 2008. However, recently the Ministry of Children, Family and Integration affairs submitted a proposal requesting the government to declare that this task has lost topicality and in the

<sup>44</sup> The Foreign Policy Concept of the Russian Federation, available at [www.kremlin.ru/eng/text/docs/2008/07/204750.shtml](http://www.kremlin.ru/eng/text/docs/2008/07/204750.shtml). See also National News Agency LETA, Russia's new foreign policy strategy will continue to defend Russian nationals interests in Baltics, 17 July 2008, ; [www.un.int/russia/new/MainRootrus/docs/off\\_news/270307/newru1.htm](http://www.un.int/russia/new/MainRootrus/docs/off_news/270307/newru1.htm), 21 July 2008.

<sup>45</sup> Z. Stankevica, 'Latvija zaude izcilus pilsonus likuma burta dēļ' [Latvia loses outstanding citizens because of the strict law], Neatkrīga rīta avīze, daily newspaper, 15 October 2007.

<sup>46</sup> I. Matisane, 'Dubultpilsonību bērniem varetu ieviest jau šogad' [Dual citizenship for children could be introduced already this year], Official Gazette, 25 July 2007. [www.lv.lv](http://www.lv.lv); G. Laganovskis, 'Tieslietu ministrs: dubultpilsonība nepieciešams jauns likums' [Minister of Justice: dual citizenship requires new law], Official Gazette, 14 May of Justice allows dual nationality, Official Gazette, 11 July 2008. [www.lv.lv](http://www.lv.lv)

<sup>47</sup> A. Erina, 'Turpina gatavot prieklikumus par pilsonības pieskirsanu arvalstis dzimuso Latvijas pilsonu bērniem' [Drafting of proposals for granting citizenship to children of Latvian citizens born abroad continues], LETA [National News Agency], 24 October 2007; A. Erina, 'Pilsonības likuma rosinā paredzēt dubultpilsonību arzemes dzīvojos Latvijas pilsonu bērniem' [Suggestion to make provisions in the Citizenship Law for dual citizenship of children of Latvian citizens living abroad], LETA, 24 April 2004.

situation of crisis there are no resources to develop an action plan for 2008-2012 as was envisaged.<sup>48</sup>

Finally, further debates can be expected concerning cases at the ECtHR. One currently pending case concerns Jurijs Petropavlovskis, who is a non-citizen and a member of the radical group Headquarters for the Protection of Russian Schools, which organised various protests against an education reform requiring more subjects to be taught in Latvian. He has declared that he would run as a candidate in local government elections after being naturalised. According to various media sources, he publicly advocated the use of violence, bloodshed and terrorism and threatened to act on these after his naturalisation.<sup>49</sup> The Cabinet of Ministers refused his application for citizenship based on the argument that he is not loyal to the state. This was a precedent confirmed by the Administrative Court Senate, which stated that the Cabinet of Ministers has wide discretion in granting citizenship and that the decision is predominantly political.

## 5 Conclusions

Latvian citizenship policy is based on the concept of state continuity. The rights attached to citizenship were therefore restored to those who were citizens at the time of the occupation of Latvia in 1940 and their descendants. This policy led to the situation that a large group of people who settled in Latvia during occupation remained stateless. Under international pressure to comply with the international legal framework, especially regarding the reduction of statelessness, Latvia introduced the status of non-citizen. A so called carrot-and-stick policy has been adopted with regards to this group. In order to enjoy these rights they have to naturalise.

Naturalisation rates peaked after liberalisation of the Citizenship Law in 1998 and after Latvia's accession to the EU in 2004. However, recently naturalisation has almost stopped. Latvia has not managed to adapt its integration policy to current realities. This is crucial especially in the context of the Russian Compatriots policy becoming more active during Putin's era. Currently, no political debates are taking place due to financial and economic crisis in Latvia. Two ethno-centric communities continue to co-exist by living in different information spaces which are exploited by politicians of the right and the left at times of elections or politically sensitive celebrations. The policies advocated by both international organisations and Russia requiring more rights for non-citizens have resulted in a lack of motivation and incentives for them to naturalise. Their social and economic situation would not improve with naturalisation and their need for information is served by Russian media. Access to political rights is an insufficient argument to foster naturalisation. The

<sup>48</sup> Valdība vairs nedomās, kā mazināt aizbraukšanu no valsts [Government will no longer consider, how to decrease emigration], 18 May 2009, <http://www.apollo.lv/portal/printit/167267/0>, accessed 18 May 2009.

<sup>49</sup> There are several publications concerning these allegations, such as, 'Staba bridinajumus par sadursmem uzskata par provokaciju' [Warnings from Stab about clashes with police considered as provocation], Diena [daily newspaper], 14 August 2004. This publication refers to an earlier article where Petropavlovskis listed 160 combatants under his command (21 February 2004). See also the interview with Petropavlovskis: Murniece I., 'Intervija ar Juriju Petropavlovski: "Mums vajadzgs starptautisks skadals!"' [Interview with J. Petropavlovskis: 'We need International Scandal!'], Latvijas Avīze [daily newspaper], 20 December 2004. Russian sources can be found at: 2004.novayagazeta.ru

question remains whether this situation can be reconciled and who can facilitate the process, especially taking into account the decreasing role of international organizations, including the EU.



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